

**01797**

**1995/00/00**

## CHINA

The People's Republic of China (PRC) is an authoritarian state in which the Chinese Communist Party (CCP) monopolizes decisionmaking authority. Almost all top civilian, police, and military positions at the national and regional levels are held by party members. A 22-member Politburo and retired senior leaders hold ultimate power, but economic decentralization has increased the authority of regional officials. Socialism continues to provide the ideological underpinning, but Marxist ideology has given way to pragmatism in recent years. The party's authority rests primarily on the success of economic reform, its ability to maintain stability, and control of the security apparatus.

The security apparatus comprises the Ministries of State Security and Public Security, the People's Armed Police, the People's Liberation Army, and the state judicial, procuratorial, and penal systems. The Constitution protects fundamental human rights, but they are frequently ignored in practice, and challenges to the CCP's political authority are often dealt with harshly and arbitrarily. Legal safeguards for those detained or imprisoned are inadequate and inconsistently implemented. The Government attaches higher priority to maintaining public order and suppressing political opposition than to enforcing legal norms. As a result, security forces are responsible for numerous human rights abuses, including arbitrary detention, forced confessions, and torture.

More than a decade of rapid economic growth has raised living standards and enabled growing numbers of Chinese to assume greater control over their own lives. The scope for private economic activity has expanded rapidly, and the degree of government and party control over the economy has continued to decline. Although many details remain to be worked out, and the pace of privatization has been uneven, many elements of the old planned economy have already been dismantled. Income disparities between coastal regions and the interior are significant and growing, but overall there has been a sharp drop in the number of Chinese living in absolute poverty. Greater disposable income, looser ideological controls, and freer access to outside sources of information have led to more diversity in cultural life and media reporting. Government control of information media now depends to an increasing extent on self-censorship to regulate political and social content, but the authorities also consistently penalize those who exceed the permissible.

In 1994 there continued to be widespread and well-documented human rights abuses in China, in violation of internationally accepted norms, stemming both from the authorities' intolerance of dissent and the inadequacy of legal safeguards for freedom of speech, association, and religion. Abuses include arbitrary and lengthy incommunicado detention, torture, and mistreatment of prisoners. Despite a reduction during the year in the number of political detainees from the immediate post-Tiananmen period, hundreds, perhaps thousands, of other prisoners of conscience remain imprisoned or detained. The Government still has not provided a comprehensive, credible public accounting of all those missing or detained in connection with the suppression of the 1989 demonstrations. Chinese leaders moved swiftly to cut off organized expressions of protest or criticism and detained government critics, including those advocating greater worker rights. Citizens have no ability peacefully to change their government leaders or the form of government. Criminal defendants are denied basic legal safeguards such as due process or adequate defense. The regime continued severe restrictions on the freedoms of speech, press, assembly and association, and tightened controls on the exercise of these rights during 1994. Serious human rights abuses persisted in Tibet and other areas populated by ethnic minorities.

The human rights situation in 1994 was, however, marked by the same diversity that characterizes other aspects of Chinese life. In several instances, the Government acted to bring its behavior into conformity with internationally accepted human rights norms. These actions included releasing several prominent political and religious prisoners, granting passports to some critics of the regime and their relatives, and adopting a law, which became effective in January 1995, that allows citizens to recover damages from the Government for infringement of their rights. The Government continued to acknowledge the need to implement the rule of law and build the necessary legal and other institutions, but it has not yet significantly mitigated continuing repression of political dissent. In 1994 China also continued a human rights dialog with some foreign critics, and reaffirmed its adherence to the Universal Declaration of Human Rights. Chinese officials provided limited information about the status of several hundred specific cases of international concern.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom from:

#### a. Political and Other Extrajudicial Killing

It is impossible to determine the number of extrajudicial killings by government officials in 1994 or the adequacy of the government response, since the Government restricts access to such information. There were individual accounts of such killings, including some carried in the Chinese press. Credible reports from international human rights organizations indicate a Tibetan nun died on June 4 in a prison hospital, reportedly as a result of a beating by guards. In May Tibetan officials reported that a former public security official in Tibet was sentenced to 9 years for causing the death of a suspect while torturing him to obtain a confession. In Fujian, a public security official was also prosecuted for torturing a prisoner to death, but no details on his sentence were provided. In December the Chinese press reported that a city police chief in Shanxi province was sentenced to 5 years for malpractice after ordering the detention and beating of two Chinese for allegedly complaining about the police chief's son. One detainee died from his injuries. Two other police officials were sentenced to death and life imprisonment, respectively, for extorting a confession in the same case. Legislators in Guangdong province also reported two cases of death by torture, but there were no details on the disposition of the cases.

#### b. Disappearance

There were no reported cases in 1994 in which individuals who disappeared were suspected to have been killed by officials. The Government still has not provided a comprehensive, credible public accounting of all those missing or detained in connection with the suppression of the 1989 Tiananmen demonstrations.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Police and other elements of the security apparatus continue to employ torture and degrading treatment in dealing with detained and imprisoned persons. Both official Chinese sources and international human rights groups reported many instances of

torture. Persons detained pending trial were particularly at risk as a result of government failure to correct obvious systemic weaknesses in the design and operation of the legal system. These weaknesses include a reliance on confessions as a basis for convictions and the lack of access to prisoners by legal counsel and family members until after formal charges are brought, a step which often takes months. Former detainees have credibly reported that officials used cattle prods, electrodes, prolonged periods of solitary confinement and incommunicado detention, beatings, shackles, and other forms of abuse against detained men and women. There are credible reports that some women detainees in Tibet have been tortured, but female prisoners do not appear to have been targeted for rape.

In March the Supreme People's Procuratorate reported it had investigated 378 cases where torture was used to extract confessions in 1993, but it provided no information on convictions or punishments. The number of actual incidents of torture and ill-treatment by government officials is almost certainly far greater than this number. In one case, a policeman was given a 1-year suspended sentence for beating Yan Zhengxue, an artist who was also a municipal people's congress deputy from Jiaojiang in Zhejiang province. In May legislators in Guangdong province identified 838 cases of police corruption and brutality, but Chinese press accounts reported that only 50 of the cases had been "corrected." According to Chinese officials, the Procuratorate has a total of 748 officials in China's jails, "reform through labor," and "reeducation through labor" facilities. Their responsibility is to supervise prison management and enforce laws on treatment of prisoners. Procuratorial offices or officers are assigned to approximately 94 percent of prisons and labor camps. Another 7,000 officials are responsible for supervising China's detention centers.

In January Justice Minister Xiao Yang announced plans to modernize 80 percent of China's prisons and reform through labor facilities by the year 2000. Conditions in Chinese penal institutions are generally harsh and frequently degrading, and nutritional and health conditions are sometimes grim. Adequate medical care for prisoners continues to be a problem despite official assurances that prisoners have the right to prompt medical treatment if they become ill. In 1994 political prisoners who reportedly had difficulties in obtaining timely and adequate medical care included Bao Tong, Ren Wanding, and Qin Yongmin. Wang Juntao was allowed to go to the United States for medical treatment in April, and Chen Ziming was

released on medical parole in May, although he remains at home under heavy surveillance.

Conditions of imprisonment for political prisoners vary widely. According to credible reports, some detained dissidents continue to be incarcerated in psychiatric institutions and treated with drugs. Dissidents such as Wang Wanxing, Wang Miaogen (who had chopped off four of his fingers in a protest in 1993 over alleged persecution), and Xing Jiandong are reportedly being held in mental hospitals in Beijing and Shanghai. However, the lack of independent outside access to such persons made it impossible to verify their diagnoses or medical treatment or the conditions under which they are being held.

Political prisoners are also often incarcerated with common criminals. Chinese press reports claimed that Zheng Musheng, a Christian, was beaten to death by fellow inmates, who were then arrested. His widow filed suit against local public security officials after Zheng died in custody in early 1994.

Unspecified "action" was taken against prison supervisory personnel. There were credible reports that dissident Qin Yongmin was severely beaten twice by fellow inmates in a reeducation through labor facility in June. According to these reports, he failed to receive adequate medical care after the beatings.

China does not permit independent monitoring of prison conditions. The Procuratorate, charged with law enforcement in the corrections system, reported 39,342 law violations in prisons, 17,823 of which were corrected. China held two rounds of talks with the International Committee of the Red Cross in January and April to discuss access to prisoners, but no agreement was reached. In February five American journalists were permitted to visit a Liaoning labor camp where political prisoner Liu Gang is held. The journalists saw Liu through a window but were not allowed to interview him. Reports persist that Liu suffers ill health as a result of beatings and other mistreatment, although Chinese officials have denied these allegations. In February a member of the China Human Rights Society, an organization established primarily to study and defend China's human rights record, was allowed to meet Liu and review his medical records in an attempt to refute reports that he had been mistreated.

d. Arbitrary Arrest, Detention, or Exile

Because the Government tightly controls information, it is impossible to estimate accurately the total number of people subjected to new or continued arbitrary arrest or detention. According to one Chinese media report from 1992, authorities have carried out close to 1 million detentions annually in recent years under a form of detention known as "shelter for investigation." They released some people without charge after several days or weeks. In some cases, they charged dissidents with "disturbing public order" or "causing social turmoil" and sentenced them to 1 to 3 years of detention without independent judicial review (see Section 1.e.).

Under China's Criminal Procedure Law, officials may hold detainees for up to 10 days before a formal arrest warrant must be approved by the Procuratorate; they must notify the detainee's family or work unit within 24 hours. Exceptions to these provisions include the sweeping provision that notification may be withheld if it would "hinder the investigation" of a case. On May 12, the Government issued revised public order regulations setting out penalties for social groups that fail to register with the proper authorities or for persons on parole or deprived of political rights who "violate regulations," as well as for several other offenses. With some exceptions, violators can be detained for up to 15 days and fined about \$23 (RMB200). In 1994 authorities detained dissidents before high-level visits of foreign leaders, but it is not clear whether the new public order regulations were the basis for these detentions. Most of those detained were released shortly after the visits ended. Others were held for longer periods or detained formally.

In practice, authorities often disregard or circumvent limits on detention by using regulations on "taking in for shelter and investigation," "supervised residence," and other methods not requiring procuratorial approval. Dissident Wei Jingsheng has been held incommunicado in supervised residence since April 1. Credible reports indicate that police detained several other political activists, including Dai Xuezhong, Xiao Biguang, Zhou Qianbing, and Zhu Fuming, for months without filing charges against them. Wang Dan and others were also detained briefly without charge several times during 1994.

Local officials and business leaders frequently conspire to use detentions as a means of exerting pressure in commercial disputes; cases in some areas have reportedly increased 50

percent over 1993. Authorities held Hong Kong businessman Chong Kwee-Sung for 30 months in Henan while his case was being "investigated," then released him in February without charges being filed. Australian businessman James Peng was kidnaped by public security officials in Macao and brought to China, where he was held for several months before being tried in November. Chinese officials said his detention was legal because it was approved by the National People's Congress Standing Committee, which has apparently not been the case in other commercial dispute cases.

In March Procurator General Zhang Siying reported on the problem of prisoners kept in prison past their release dates, noting that 34,432 of 73,416 such cases had been corrected. The legality of detentions can be challenged under the Administrative Procedure Law, but since detainees do not have access to lawyers, they have been unable to use this law to obtain prompt judicial determination of the legality of their detentions. The new State Compensation Law, passed in May, clarified the right of citizens to recover damages for illegal detentions. Even before the law took effect on January 1, 1995, the Chinese press reported a decision by a Beijing lower court awarding damages to a law professor who was illegally detained and beaten by public security officials in May. In June a Fujian court awarded damages in a case of illegal "taking in for shelter and investigation." There is no judicially supervised system of bail, but at the discretion of public security officials, some detainees are released pending further investigation.

#### e. Denial of Fair Public Trial

According to the Constitution, the court system is equal in authority to the State Council and the Central Military Commission, the two most important government institutions. All three organs are nominally under the supervision of the National People's Congress (NPC). The Supreme People's Court stands at the apex of the court system, followed in descending order by the higher, intermediate, and basic people's courts. Judges are appointed by the people's congresses at the corresponding level. There are special courts for handling military, maritime, and railway transport cases.

Officials insist that China's judiciary is independent but acknowledge that it is subject to the Communist Party's policy guidance. In practice, party and government leaders use a variety of means to influence court verdicts and sentences.

Corruption and conflicts of interest also affect judicial decisionmaking. In March Supreme Court officials acknowledged problems with local protectionism and failure to conduct fair trials, particularly in economic disputes. The Chinese press publicized a 1993 economic case in which the court told the parties the decision was already written before the parties had finished producing their evidence.

In practice, officials often ignore due process rights granted by the Constitution. Both before and after trial, prisoners are subjected to severe psychological pressure to confess their "errors." Defendants who fail to "show the right attitude" by confessing their crimes are typically sentenced more harshly. Persons appearing before a court are not presumed innocent; despite official denials, trials are essentially sentencing hearings. Confessions without corroborating evidence are insufficient for a conviction under Chinese law, but coerced confessions are not automatically excluded as evidence.

Accused persons are given virtually no opportunity to prepare an adequate defense while their cases are being investigated, a time when the question of guilt or innocence is essentially decided. The law provides that defense lawyers may be retained 7 days before trial. However, in some cases, even this brief period is shortened under regulations issued in 1983 to accelerate the adjudication of certain serious criminal cases. Under Chinese law, there is no requirement that the court appoint a defense attorney for the defendant unless the defendant is hearing impaired or a minor, although the court may appoint defense counsel if it feels an attorney is necessary. When attorneys do appear, they have little time to prepare a defense and rarely contest guilt; their function is generally confined to requesting clemency. The conviction rate is over 90 percent. The court's permission is required before the accused or his representative can interrogate witnesses, produce new witnesses, or review evidence.

In some regions, experimentation with the trial system is underway. Shanghai court officials announced plans in August in some criminal and civil cases to expand an experiment with a more adversarial system, which gives attorneys more responsibility for presenting evidence and arguing the facts during trials.

Chinese officials state that China has insufficient numbers of lawyers to meet the country's growing needs. Knowledgeable observers report that defense attorneys appear in only a small

number of criminal trials. As a key element in its legal reform plans, China plans to increase the number of lawyers to 150,000 by the year 2000. As of July, there were 70,515 lawyers working in 5,885 law firms. In many cities, private law firms are being organized outside the framework of established government legal offices. These firms are self-regulating and do not have their personnel or budgets determined directly by the State. At the end of 1993, there were 502 such firms. However, many defense lawyers, like other Chinese, still depend on an official work unit for employment, housing, and other benefits. They are therefore often reluctant to be viewed as overzealous in defending individuals accused of political offenses. In some sensitive cases, relatives of defendants have reportedly found it difficult to hire defense lawyers.

The Criminal Procedure Law requires that all trials be held in public, except those involving state secrets, juveniles, or "personal secrets." Details of cases involving "counterrevolutionary" charges, however, have frequently been kept secret, even from defendants' relatives, under this provision. The 1988 Law on State Secrets affords a ready basis for denying a public trial. Hong Kong reporter Xi Yang's trial in March on the charge of stealing state secrets was not open to the public (see Section 2.a.). In November journalist Gao Yu was sentenced to 6 years in prison for "leaking state secrets," allegedly published in the Hong Kong press. Gao's lawyer and her relatives said they had not been notified of the final trial or sentencing hearing (the case had been returned twice for insufficient evidence). There is an appeals process, but initial decisions are rarely overturned, and appeals generally do not provide meaningful protection against arbitrary or erroneous verdicts. Under the Criminal Procedure Law, persons "exempted from prosecution" by procurators may still be deemed to have a criminal record, despite the lack of a judicial determination of guilt. Such provisions can be applied in "counterrevolutionary crimes" as well as in ordinary criminal offenses.

Lack of due process is particularly egregious when defendants receive the death sentence. Chinese officials refuse to provide comprehensive statistics on death sentences or executions, but hundreds of executions are officially reported annually. The actual numbers may be much higher. All death sentences are nominally reviewed by a higher court. Reviews are usually completed within a few days after sentencing and consistently result in a perfunctory confirmation of sentence.

No executions for political offenses are known to have occurred in 1994.

During 1994 new reports revived previous allegations that organs from executed Chinese prisoners are removed and transplanted to patients without the consent of the prisoner or his or her family. These reports have not been verified.

In January 1995, a Ministry of Justice official said there were a total of 1,285,000 prisoners in prisons or reform through labor camps at the end of 1994. Prisoners can be sentenced to these facilities only by the courts. However, government authorities can assign persons accused of "minor" public order offenses to "reeducation through labor" camps in an extrajudicial process. Terms of detention run from a normal minimum of 1 year to a maximum of 3 years. The labor reeducation committee which determines the term of detention may extend an inmate's sentence for an additional year. According to Chinese officials, 153,000 detainees were in reeducation through labor facilities at the end of 1993, up 16 percent over 1992 figures. Other estimates of the number of inmates are considerably higher. Officials said 75,900 were released from reeducation through labor facilities in 1993. Under a State Council regulation issued in early 1991, those sentenced to reeducation through labor may ask the committee to reconsider its decision.

Since 1990 reeducation through labor sentences may also be judicially challenged under the Administrative Procedure Law. While some persons have obtained a reduction in or withdrawal of their sentence after reconsideration or appeal, in practice these procedures are not widely used, and short appeal times, lack of access to lawyers, and other problems weaken their effectiveness in preventing or reversing arbitrary decisions.

Government officials deny that China has any political prisoners, asserting that persons are detained not for the political or religious views they hold, but because they have taken some action which violates the Criminal Law. Political dissidents, however, are often detained or charged for having committed "crimes of counterrevolution" under Articles 90 through 104 of the Criminal Law. Counterrevolutionary offenses range from treason and espionage to spreading counterrevolutionary propaganda. The authorities also used these articles to punish persons who organized demonstrations, disrupted traffic, disclosed official information to foreigners, or formed associations outside state control. In

December, 9 of 16 defendants tried in Beijing in July were sentenced to prison terms ranging from 3 to 20 years for leading or participating in "counterrevolutionary groups" or conducting "counterrevolutionary propaganda and incitement." One defendant was sentenced to two years of "supervision," one was excused before trial for medical reasons, and charges against five others were dropped. All 16 defendants had been held in pretrial detention for more than 2 years. In other cases, the system of reeducation through labor is used to deal with political offenders. Qin Yongmin was sentenced to 2 years' reeducation through labor in January for "creating turmoil," apparently for his role as founder of the "Peace Charter" group in 1993. Labor activist Zhang Lin and lawyer Zhou Guoqiang were reportedly sentenced to 3-year terms of reeducation through labor in September, as were activists Bao Ge, Yang Zhou, Li Guotao, and Yang Qingheng in October. Liu Huanwen was sentenced to 2 years' reeducation through labor in August. Shanghai Human Rights Association member Dai Xuezhong was sentenced to 3 years for alleged tax evasion in December. Wei Jingsheng's secretary, Tong Yi, began serving a 2 1/2 year sentence of reeducation through labor in late December for allegedly forging an official stamp. Dissidents such as Fu Shengqi and Zhang Xianliang are also still being held in reeducation through labor facilities and are reportedly in poor health.

In January an official from the Chinese Ministry of Justice said there were 2,678 people serving sentences for counterrevolutionary crimes at the end of 1994. Chinese officials told an American human rights monitor in June that as of the end of March there were 2,935 people serving sentences for counterrevolutionary crimes, down from 3,172 in December 1993. These figures include people convicted of espionage or other internationally recognized criminal offenses but do not include political prisoners detained but not charged; political or religious activists held in reeducation through labor camps; and persons detained or convicted for criminal offenses due solely to their nonviolent political or religious activities.

The Government released on parole during 1994 several Chinese prisoners who were detained for political or religious reasons, including prominent activists Wang Juntao, Chen Ziming, Ding Junze, Yulo Dawa Tsering, and others. Nevertheless, many others, including Wei Jingsheng, Ren Wanding, Bao Tong, and Liu Gang, remained imprisoned or under other forms of detention in 1994. Some of those released in 1994 or earlier, such as Chen Ziming and Wang Dan, remain under close police surveillance and

suffer from occasional police harassment, making it difficult for them to live a normal life. Wang Dan, for example, was threatened physically in December by undercover police officers, some of whom continued surveillance outside his home. Fearing physical harm, Wang disappeared from public view for 4 weeks before returning home.

Many political prisoners are subject to "deprivation of political rights" even after their period of parole has expired. This status further limits their rights of free speech and association. With a criminal record, their status in society, ability to be employed, freedom to travel, and numerous other aspects of their lives are often severely restricted, although economic reform and social change have ameliorated these problems somewhat. The families of political prisoners are also adversely affected; sometimes family members encounter difficulty in obtaining or keeping employment and housing. For example, Zhang Fengying, wife of imprisoned activist Ren Wanding, and her teenage daughter were evicted from their apartment, owned by Ren's work unit, in 1992 and remained in poor housing during 1994.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Changes in the economic structure, including the growing diversity of employment opportunities and the increasing market orientation of many work units, are undermining the ability of the authorities to monitor and regulate personal and family life as closely as in the past, particularly in rural areas. In urban areas, however, most people still depend on their government-linked work unit for housing, permission to have a child, approval to apply for a passport, and other aspects of ordinary life. The work unit, along with the neighborhood committee, is charged with monitoring activities and attitudes.

Although the law requires search warrants before security forces can search premises, this provision is often ignored. In addition, both the Public Security Bureau and procuracy apparently can issue search warrants on their own authority. The 1982 Constitution states that "freedom and privacy of correspondence of citizens ... are protected by law," but in practice, authorities record some telephone conversations and some mail is opened and censored. Government security organs monitor and sometimes restrict contact between foreigners and Chinese citizens, particularly dissidents. Rules issued in July implementing the State Security Law define "activities of

individuals outside the country (including non-Chinese citizens resident in China) who disregard dissuasion and meet with personnel in the country who have endangered state security or who are seriously suspected of endangering state security" as a violation of the State Security Law.

The Government has continued its effort to control citizens' access to outside sources of information, selectively jamming Chinese language broadcasts of the Voice of America (VOA) and British Broadcasting Corporation. The effectiveness of the jamming varies considerably by region, with audible signals of VOA and other broadcasters reaching most parts of China.

China's population has roughly doubled in the past 40 years to 1.18 billion people. In the 1970's and 1980's, China adopted a comprehensive and highly intrusive one-child family planning policy. This policy most heavily affects Han Chinese in urban areas. Urban couples seldom obtain permission to have a second child. However, exceptions are allowed for the 70 percent of Han who live in rural areas, and ethnic minorities are subject to less stringent population controls. Enforcement of the family planning policy is inconsistent, varying widely from place to place and year to year.

The population control policy relies on education, propaganda, and economic incentives, as well as more coercive measures, including psychological pressure and economic penalties. Rewards for couples who adhere to the policy include monthly stipends and preferential medical and educational benefits. Disciplinary measures against those who violate the policy include fines, withholding of social services, demotion, and other administrative punishments, such as loss of employment. Unpaid fines have sometimes resulted in confiscation or destruction of personal property. Because penalties for excess births can be levied against local officials and the mothers' work units, many individuals are affected, providing multiple sources of pressure.

Physical compulsion to submit to abortion or sterilization is not authorized, but Chinese officials acknowledge privately that there are instances of forced abortions and sterilizations. Officials maintain that, when discovered, responsible officials are disciplined and undergo retraining. They admit, however, that stronger punishment is rare. Individuals can also sue officials who have exceeded their authority in implementing family planning policy, but

government officials have not provided data on the number of successful suits on these grounds.

Regulations forbid sex-selective abortion, but because of the traditional preference for male children, particularly in rural areas, some families have used ultrasound to identify and abort female fetuses. Use of ultrasound for this purpose was specifically prohibited by the Maternal and Child Health Law passed in October, which prescribes penalties for medical practitioners who violate this provision. The Chinese press has reported that the ratio of male to female births is 114 to 100, based on a nationwide average, while the statistical norm is 106 male births to 100 female. The ratio excludes many female births, especially the second or third in a family, which are unreported to permit the parents to keep trying to conceive a boy, but may also reflect the abuse of sonography. Female infanticide may also be a factor in some areas of China.

At least five provincial governments have implemented regulations seeking to prevent people with severe mental handicaps from having children. In October China passed a national Maternal and Child Care Law calling for premarital and prenatal examinations to determine whether couples have acute infectious diseases, certain mental illnesses (not including mental retardation), or are at risk for passing on debilitating genetic diseases. The law goes into effect on June 1, 1995, and implementing regulations defining which diseases or conditions will be covered have not yet been completed. The law will be implemented by the Ministry of Health, not the State Family Planning Commission, and while it includes provisions for abortion or sterilization in some cases based on medical advice, it provides for obtaining a second opinion and mandates that patients or their guardians give written consent to such procedures. (See also Section 5 on People with Disabilities.)

There were no reported cases of prosecution of parents for teaching their children religion in the privacy of their home.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

Although the Constitution states that freedom of speech and freedom of the press are fundamental rights enjoyed by all Chinese citizens, the Government interprets the Communist Party's "leading role" as circumscribing these rights. It does

not permit citizens to publish or broadcast criticism of senior leaders or opinions that contradict basic Communist Party doctrine, which provides for a Socialist state under the party's leadership. The Government and party maintained strict control over published expression of dissenting views in 1994. Public security authorities briefly detained several foreign journalists in March, April, and May after they had interviewed or attempted to interview noted dissidents or their relatives. Under China's State Security Law, "official secrets" are broadly defined, and interpretation is left to the Ministries of State Security and Public Security. Hong Kong reporter Xi Yang was convicted of "spying and stealing state secrets" after a closed trial in March. He was sentenced to 12 years' imprisonment and 2 years' deprivation of political rights for allegedly obtaining "financial and economic secrets," including information on China's interest rates and plans to sell gold. Tian Ye, the bank official who allegedly supplied Xi with the information, was sentenced to 15 years' imprisonment and 3 years' deprivation of political rights. After a closed trial, former journalist Gao Yu was sentenced to 6 years' imprisonment in November for "leaking state secrets abroad." (See Section 1.e.)

The party and the Government continue to control print and broadcast media and compel them to propagate the currently acceptable ideological line. In June press guidelines called on reporters to protect state secrets, avoid corruption, and not publicize "sensitive subjects." Despite these admonitions, the lively tabloid sector continued to expand in 1994, while circulation of major propaganda-oriented dailies continued to decline. Radio talk shows remained popular, and, while generally avoiding politically sensitive subjects, they provided opportunities to air grievances about public issues. A small but rapidly growing segment of the population has access to satellite television broadcasts. Satellite television dishes are widely available for sale, and a licensing scheme begun in October 1993, which controls purchase and possession of the equipment, has been implemented at best unevenly.

The Government's ability to control the production and dissemination of publications continued to diminish in 1994. Fierce competition and dwindling government subsidies have increased opportunities for private publishers and booksellers. Some credible estimates hold that, at the end of 1993, as much as one-third of all books were being published through these unsanctioned channels. In April officials

announced the number of licensed publications would be frozen at current levels. Shenzhen authorities confiscated a thousand copies of "Tendency Quarterly" and briefly detained its founder in January. In May 45 newspapers and periodicals were banned for illegally reselling their publishing licenses. Seven film directors were banned in March for entering their works in an overseas film festival without going through official channels.

The Government has continued to impose heavy ideological controls on colleges, universities, and research institutes. As a result, many intellectuals and scholars, fearing that books or papers on political topics would be deemed too sensitive to be published, feel compelled to exercise self-censorship. In areas such as economic policy or legal reform, there was greater official tolerance for comment and criticism.

b. Freedom of Peaceful Assembly and Association

While the Constitution provides for freedom of peaceful assembly and association, the Government severely restricted these rights in practice. The Constitution provides, for example, that such activities may not infringe "upon the interests of the State"; protests against the political system or its leaders are prohibited. Although some small-scale demonstrations on nonpolitical grievances are tolerated in practice, demonstrations involving expression of dissident political views are denied permits and suppressed if held. Police detained Zhou Guoqiang and Yuan Hongbing in March, reportedly in part due to their presentation of a petition on human rights and worker rights to the NPC during its annual plenary session. Press reports from a Chinese-controlled service also accused Zhou of planning to sell "political" T-shirts while the NPC was in session.

The Communist Party organizes and controls most professional and other mass associations. Regulations promulgated in 1990 require all organizations to be officially registered and approved. Ostensibly aimed at secret societies and criminal gangs, the regulations also deter the formation of unauthorized political or labor organizations. Authorities in Shanghai refused to allow several individuals to register a proposed "human rights association," and some members of the group were subsequently detained (see Section 4). In March Liu Nianchun was denied permission to register the Association for Protection of Labor Rights; Liu himself was detained in May but released in October. No charges were filed against him.

c. Freedom of Religion

The Government subjects religious freedom to restrictions of varying severity, although the number of believers continues to grow. While the Constitution affirms toleration of religious beliefs, government regulations restrict religious practice to government-controlled religious organizations and registered places of worship. The Government supervises the publication of religious material for distribution. There are persistent complaints that the number of Bibles and other religious materials allowed to be printed falls far short of demand. Religious affairs bureaus, which are staffed by officials who rarely are religious believers, provide "guidance and supervision" over implementation of government regulations on religion. In a Catholic seminary in Chengdu, all the seminarians walked out in April to protest party interference in the operation of the school. Communist Party officials state that party membership and religious belief are incompatible. This places a serious limitation on religious believers, since party membership is required for almost all high positions in government and state-owned businesses.

There are no specific bans on particular religious groups, but the treatment of religious believers and organizations varies widely. Unregistered or "house" church leaders and members are harassed in some regions but tolerated in others. Nonmainstream sects are often singled out. Credible reports indicate members of an evangelical sect known as "Shouters" continued to be harassed, detained, fined, and imprisoned in Henan after the group was deemed "counterrevolutionary" in 1984.

After forcefully suppressing all religious observances during the 1966-76 Cultural Revolution, the Government began in the late 1970's to restore or replace damaged or confiscated churches, temples, mosques, and monasteries. The official religious organizations administer more than a dozen Catholic and Protestant seminaries, nine institutes to train Imams and Islamic scholars, and institutes to train Buddhist monks. Students who attend these institutes must demonstrate "political reliability," and all graduates must pass an examination on their theological and political knowledge to qualify for the clergy. The Government permitted some Catholic seminarians, Muslim clerics, and Buddhist clergy to go abroad for additional religious studies in 1994.

The authorities permit officially sanctioned religious organizations to maintain international contacts as long as

these do not entail foreign control. In January China promulgated regulations on religious practices by foreigners and on places of religious activities. The regulations codified many existing rules, including a ban on proselytizing by foreigners, but allow foreign nationals to preach to foreigners, bring in religious materials for their own use, and preach to Chinese in churches, mosques, and temples at the invitation of registered religious organizations. In practice, some discreet proselytizing and distribution of religious texts by foreigners outside official channels is tolerated.

Buddhists are by far the largest body of religious believers in China. The Government estimates that there are 100 million Chinese Buddhists, most of whom are from the dominant Han ethnic group. (A discussion of government restrictions on Tibetan Buddhism can be found in the addendum to this report.)

According to government figures, there are 17 million Muslims in China. In some areas with large Muslim populations, officials continue to restrict the building of mosques and the religious education of youths under 18. Following the 1990 unrest in Xinjiang, the authorities issued regulations further restricting religious activities and teaching. Ningxia authorities issued regulations in July forbidding religious bodies from interfering in administrative affairs, including education, marriage, and family planning.

China permits Muslim citizens to make the hajj to Mecca, and the number of those making the hajj has significantly increased in recent years. About 3,000 officially sponsored Chinese made the hajj in 1993; many more traveled at their own expense.

The number of Christians continues to grow rapidly. Only those Christian churches affiliated with either the Catholic Patriotic Association or the (Protestant) Three Self Patriotic Movement, which the Government established in the 1950's to eliminate perceived foreign domination of Christian groups, may operate openly.

Active unofficial religious movements pose an alternative to the state-regulated churches, although in some areas there is tacit cooperation between official and unofficial churches. The unofficial, Vatican-affiliated, Catholic Church claims a membership far larger than the 4 million registered with the official Catholic Church, though actual figures are unknown. In addition to the 6 million persons who are officially counted as following Protestantism, a large number of Protestants

worship privately in "house churches" that are independent of government control.

There continued to be credible reports in 1994 of efforts by authorities in some areas to rein in activities of the unapproved Catholic and Protestant movements, including raiding and closing a number of unregistered churches. Two Protestant house churches in Shenzhen were reportedly closed and their leaders briefly detained. Several Hong Kong-based Christian missionaries were detained for a few days in Henan in February for violating regulations on religious activities by foreigners; several Chinese Christians also detained in connection with the incident were released later. In November, in another town in Henan, a preacher from Taiwan and 152 local Christians were reportedly detained on charges of unauthorized proselytizing by foreigners (under the January religious regulations, Chinese from Hong Kong and Taiwan are covered by the rules governing foreigners). Ten are still in custody; the rest reportedly were released after paying fines of approximately \$118 (1,000 RMB). The Guangzhou house church of Pastor Samuel Lamb (Lin Xiangao) continued to operate openly but was subject to limited harassment by the authorities. Elsewhere, authorities tolerate the existence of unofficial Catholic and Protestant churches as long as they remain small and discreet.

A number of religious activists remained imprisoned in 1994. There was some evidence that authorities have increasingly used short-term detentions, rather than long prison terms when dealing with unauthorized religious activities. Pan Yiyuan, leader of a house church in Fujian, was detained in March and released in December. Wei Jingyi was redetained in January in Hebei less than a year after finishing a 3-year sentence to reeducation through labor. Two church members from Anhui were reportedly sentenced to 2 years' reeducation through labor in September, reportedly for contacting "anti-China overseas organizations." Father Gu Zheng was reportedly detained in Xinjiang in October for teaching in an unregistered Catholic seminary. Father Vincent Qin Guoliang was sentenced to 3 years' reeducation through labor in November in Qinghai province. Bishop Su Zhiming was detained briefly in January after meeting with a visiting U.S. Congressman. Authorities in Jiangxi reportedly redetained Bishop Zeng Jingmu in September after holding him for a few days in August. Father Liao Haiqing, also detained in September, was released in November. Several other religious activists were released in 1994, although the whereabouts of some reported to have been released

could not be confirmed, and others remained under some restrictions. Pei Ronggui and Jia Zhiguo were released in late January or early February; Zhang Ruiyu, Chen Zhuman, Cui Tai, Yan Peizhi, Xu Zhihe and Zhang Li were released in May. In April a visiting American religious figure was told that Han Dingxiang, Fan Zhongliang, Liu Guangdong, and others had been released. In November the U.N. Special Rapporteur on Religious Intolerance made a 10-day visit to China, including Tibet, at the invitation of the Chinese Government.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The effectiveness of the Government's identification card system used to control and restrict individual residence location within the country continued to erode in 1994. The "floating population" migrating to China's urban areas from the countryside is estimated at anywhere from 50 to 100 million. In January the Government announced the household registration system would be revamped to adapt to the new situation. However, because this itinerant population lacks official status, access to housing, schooling, and the full range of employment opportunities can be restricted.

Some former inmates have been denied permission, under the "staying at prison employment" system, to return to their homes, a provision applicable to those incarcerated in both the "reform through labor" and the "reeducation through labor" systems. For those assigned to camps far from their residences, this constitutes a form of internal exile. The number of prisoners subject to this restriction is unknown. Others have reportedly been forced to accept jobs in state enterprises where they can be more closely supervised after their release from prison or detention.

The Government routinely permits legal emigration and most foreign travel. There was progress during 1994 in several cases in which the Government had denied passports for political reasons. Legal scholar Yu Haocheng finally obtained a passport and exit permit in May, as did several relatives of dissidents currently residing abroad. Although regulations promulgated in 1990 require college graduates to repay the cost of their free postsecondary education by working for 5 years before going abroad, students wishing to go abroad still manage to obtain passports. The Government continues to use political attitudes as a major criterion in selecting people for government-sponsored study abroad.

The Government continued its efforts to attract persons who have studied overseas back to China. Official media have said that before returning home, Chinese citizens who have joined foreign organizations hostile to China should quit them and refrain from activities which violate Chinese law. The authorities continued to refuse to allow labor activist Han Dongfang to return to China after revoking his passport in 1993 on the grounds that he engaged in activities hostile to China while overseas. In November authorities stopped poet Bei Dao at Beijing Airport and reportedly interrogated him overnight about his position as director of Human Rights in China, a U.S.-based organization. He was then refused entry into China. Some former student leaders who were active in the 1989 Tiananmen demonstrations reportedly continue to have difficulty getting permission to return to China.

The Government accepts the repatriation of citizens who have entered other countries or territories illegally. In 1994, in addition to the routine return of Chinese illegal immigrants found in Hong Kong, the Government permitted the return of several large groups of illegal immigrants from other countries. Citizens illegally smuggled to other countries are often detained for a short time to determine identity and any past criminal record or involvement in smuggling activities. As a deterrent and to recover local costs incurred during the repatriation, the authorities in some areas levy a fine of \$1,000 or more on returnees.

Currently there is no law authorizing the authorities to grant refugee status, and they generally repatriate persons of other nationalities seeking to be recognized as refugees. The Ministries of Foreign Affairs, Public Security, and Civil Affairs, in collaboration with the U.N. High Commissioner for Refugees, are writing legislation that would allow China to honor its obligation as a party since 1982 to the Geneva Convention in regard to refugees.

Although the Government denies having tightened its policy on accepting Vietnamese refugees, in recent years very few such refugees have actually been resettled in China. China has not signed the Comprehensive Plan of Action negotiated at the Geneva International Conference on Indochinese Refugees in 1989, but it generally has abided by its principles.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens lack the means to change their government legally and cannot freely choose or change the laws and officials that govern them. Citizens vote directly only for county-level people's congress delegates. People's congress delegates at the provincial level are selected by county-level people's congresses, and in turn provincial-level people's congresses select delegates to the National People's Congress. According to the 1982 Constitution, the National People's Congress (NPC) is the highest organ of state power. It elects the President and Vice President, decides on the choice of the Premier, and elects the Chairman of the Central Military Commission. In some elections (but not for the central Government positions chosen by the NPC), voters are offered more candidates than positions, allowing a modest degree of choice among officially approved candidates. There were credible reports that the candidates most favored by authorities were defeated in some local elections, particularly at the village level.

There are no restrictions placed on the participation of women or minority groups in the political process, and women make up 14 percent of Communist Party membership. However, the election and agenda of people's congresses at all levels remain under tight control by the Communist Party, the paramount source of political authority in China. The Constitution was amended in 1993 to ratify the existence of small "democratic" parties, but these play only a minor consultative role at most, and all pledge allegiance to the Communist Party. Thus, the Communist Party retains an explicit monopoly on political decisionmaking.

The requirement that associations register and be approved makes it difficult for independent interest groups to form and affect the system. Several persons who petitioned the NPC calling for greater attention to human rights and workers' rights, including Zhou Guoqiang, Yuan Hongbing, and others, were detained by authorities in March and April. Zhou Guoqiang was sentenced in September to 3 years' reeducation through labor (see Section 1.e.).

**Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

There are no independent Chinese organizations that publicly monitor or comment on human rights conditions in China. The Government has made it clear it will not tolerate the existence of such groups. In April Shanghai officials denied a request for permission to register by the Chinese Human Rights Association, a group founded by Yang Zhou and other dissidents. The decision was justified on the grounds that the group was not affiliated with an official organization. The authorities subsequently detained most of the members of the group, but it is not clear whether their detentions resulted solely from their involvement in the group. Wang Dan, a 1989 student activist, was repeatedly detained for brief periods in 1994 after announcing his intention to investigate China's human rights situation. (See also Section 1.d.)

The Government has promoted limited academic study and discussion of concepts of human rights since 1991. Research institutes in Shanghai and Beijing, including the Chinese Academy of Social Sciences, have organized symposia on human rights issues, established human rights research centers, and visited other countries to study human rights practices in those nations. In 1993 the Government formed the China Society for Human Rights Studies as a "nongovernmental organization"; its efforts have focused largely on improving China's image abroad and responding to criticism of China's human rights record. In June the Society issued comments on the 1993 U.S. State Department Human Rights Report which stridently defended Chinese practices and glossed over fundamental human rights abuses that the Government continues to perpetrate.

The Government reiterated in April that China agrees to abide by the Universal Declaration of Human Rights and other international human rights documents. Despite this public statement, Chinese officials accept only in theory the universality of human rights. They argue instead that a nation's political, economic, and social system and its unique historical, religious, and cultural background determine its concept of human rights. To advocate this nonuniversal view, and to deflect attempts to discuss its human rights record, China was active in 1994 in international forums, including the annual U.N. Human Rights Commission meeting.

The Government remains reluctant to accept criticism of its human rights practices by other nations or international organizations and often criticized reports by international human rights monitoring groups in 1994. Nevertheless, officials no longer dismiss all discussion of human rights as interference in the country's internal affairs. Chinese authorities continued their limited dialog with foreign governments on human rights issues in talks with a number of visiting delegations from other countries, and also during visits abroad by Chinese leaders. At the request of the U.S. Government in 1993, the Chinese Government provided limited information about the status of several hundred persons believed to be imprisoned for their political or religious beliefs. As noted in Section 2.c., in November the U.N. Special Rapporteur on Religious Intolerance visited China for 10 days at the invitation of the Chinese Government. His visit included a trip to Lhasa, capital of the Tibet Autonomous Region.

Section 5 Discrimination Based on Race, Sex, Religion,  
Disability, Language, or Social Status

Laws exist that seek to protect women, children, the disabled, and minorities. In practice, social discrimination based on ethnicity, gender, and disability has persisted and the concept of a largely homogeneous Chinese people pervades the general thinking of the Han majority.

Women

The 1982 Constitution states that "women enjoy equal rights with men in all spheres of life," including ownership of property, inheritance rights, and access to education. In 1992 the NPC enacted legislation on the protection of the rights and interests of women which was designed to assist in curbing sex-related discrimination. Women continued, however, to report discrimination, sexual harassment, unfair dismissal, demotion, and wage cuts. Women are sometimes the unintended victims of economic reforms designed to streamline enterprises and give workers greater job mobility. A survey of the All-China Federation of Trade Unions found that women made up 60 percent of those forced to leave their jobs due to enterprise cutbacks or reorganizations in 1993. Many employers prefer to hire men to avoid the expense of maternity leave and child-care, and some even lowered the retirement age for female workers to 40 years of age. Although Chinese law promises equal pay for equal work, a 1990 survey found that women's

salaries averaged 77 percent of men's. Most women employed in industry work in lower-skilled and lower-paid jobs.

In June the Government issued a white paper on the situation of Chinese women, spurred by plans to host the Fourth World Conference on Women in Beijing in 1995. According to the white paper, women hold relatively few positions of significant influence within the party or government structure (there are no women in the 22-member Politburo), although 21 percent of national People's Congress delegates and 13 percent of members of the Chinese People's Political Consultative Conference are women. While the gap in the education levels of men and women is narrowing, men continue to constitute the majority of the educated, particularly the highly educated. For example, the white paper reported that in 1992, women made up 33.7 percent of college students, and 24.8 percent of postgraduates. From 1982 to 1993, 4.9 percent of doctoral degrees were awarded to women.

The Government continued in 1994 to condemn strongly and take steps to prevent and punish the abduction and sale of women for marriage or prostitution, violence against women, and female infanticide. It has severely punished and in some cases executed a number of people accused of such crimes. In a case reported in the Chinese press in December, a gang of 48 people in Anhui province received sentences ranging from 19 years to death for abducting, raping, and selling 102 women. The case was the most serious which has become known to date. The abduction of women remains a serious problem, especially in those areas where local officials have resisted efforts of central authorities to stop it. According to figures announced by the Ministry of Public Security in January, there were 15,000 cases of abduction and trafficking in women and children in 1993.

One report from Inner Mongolia blamed part of the problem of abduction and selling of women on a serious imbalance in sex ratios in one county, where there were 115 men for every 100 women. The question of male/female birth ratios and traditional preferences for boys is discussed in Section 1.f. Although Chinese authorities have enacted laws and conducted educational campaigns to eradicate the traditional preference for sons, in many areas this preference remains strong, especially in rural China. A number of provinces have sought to reduce the perceived higher value of boys in providing old-age support for their parents by establishing or improving pensions and retirement homes.

Nationwide statistics on the extent of physical violence against women are not available, but a survey of 2,100 families by the Beijing Society for Research on Marriage and the Family published in March, showed that one-fifth of all wives had been abused by their spouses. One government study indicated 2 percent of urban households and 5 percent of rural ones had serious problems of domestic violence.

#### Children

China does not condone violence against children, and physical abuse can be grounds for criminal prosecution. In 1992 China's Law on the Protection of Juveniles was enacted. It forbids infanticide, as well as mistreatment or abandonment of children. The law also prohibits discrimination against handicapped minors, emphasizes the importance of safety and morality, and codifies a variety of judicial protections for juvenile offenders. The Chinese press continues to report instances of child abuse, for example a December case in which a mother beat her daughter to death despite several prior warnings to stop abusing the child. In one case publicized in the Chinese press, a hospital successfully sued a father for abandoning his infant twin daughters soon after their birth. He was given a 1-year suspended sentence. Female and especially handicapped children represent a disproportionate percentage of those abandoned. Kidnapping and buying and selling of children continued to be a problem in some rural areas. China's extensive health care delivery system has led to a sharp decline in infant mortality rates and improved child health. According to Chinese media, China's infant mortality rate declined to 31 per 1,000 live births in 1994.

#### National/Racial/Ethnic Minorities

The 55 designated ethnic minorities constitute just over 8 percent of China's total population. Most minority groups reside in areas they have traditionally inhabited, many of which are in mountainous or remote parts of China. China's minorities benefit from a policy of preferential treatment in marriage policy, family planning, university admission, and employment. While the standard of living for most minorities has improved in recent years, incomes in these areas are often well below the national average. The Government has programs to provide low interest loans, subsidies, and special development funds for minority areas. While these government development policies have helped raise minority living

standards, they have also disrupted traditional living patterns.

The central Government has tried to adopt policies responsive to minority sensitivities, but in doing so has encountered the dilemma of how to respect minority cultures without damaging minority educational and economic opportunities. In many areas with a significant population of minorities, there are two-track school systems using standard Chinese and minority languages. Students can choose which system to attend. One acknowledged side effect of this policy to protect and maintain minority cultures has been reinforcement of a segregated society. Under this separate education system, those graduating from minority schools are at a disadvantage when competing for jobs in government and business, which require good spoken Chinese. These graduates must take Chinese language instruction before attending universities and colleges.

The Communist Party has an avowed policy of boosting minority representation in the Government and the party. Many minorities occupy local leadership positions, and a few have positions at the national level. However, in most areas, ethnic minorities are effectively shut out of most positions of real political and decisionmaking power. Some minorities resent Han officials holding key positions in minority autonomous regions. Ethnic minorities in Tibet, Xinjiang, and elsewhere have at times demonstrated against Han Chinese authority. Central authorities have made it clear that they will not tolerate opposition to Communist Party rule in minority regions.

#### People with Disabilities

In 1990 China adopted legislation protecting the rights of China's 54.64 million disabled. However, as with many other aspects of Chinese society, reality for China's handicapped lags far behind the legal provisions. Misdiagnosis, inadequate medical care, pariah status, and abandonment remain the norm for China's disabled population.

Statistics on education reveal the inequity of resources afforded the handicapped in China: only 6 percent of disabled school children receive primary education. The illiteracy rate among the disabled is 60 percent, and school attendance averages only 20 percent for blind, deaf, or mentally retarded children.

In May the China Welfare Fund for the Handicapped, headed by Deng Pufang, son of retired senior leader Deng Xiaoping, announced plans to raise the employment rate and the education enrollment rate of the disabled to 80 percent by the year 2000, increase vocational training, and promote research on disabilities in China. All state enterprises are required to hire a certain number of disabled workers, but Chinese authorities estimate that 40 percent of disabled people are jobless.

In May China adopted standards for making roads and buildings accessible for the handicapped. The 1990 Law on the Handicapped, however, calls for "gradual" implementation of the standards. A low level of compliance with the regulations to date has resulted in limited access to most buildings for China's physically handicapped.

The new Maternal and Child Health Care Law passed in October postpones the marriage of persons with certain specified contagious diseases or certain acute mental illnesses such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The law mandates premarital and prenatal examination for genetic or contagious diseases, and it specifies that medically advised abortion or sterilization require the signed consent of the patients or their guardians.

## Section 6 Worker Rights

### a. The Right of Association

China's 1982 Constitution provides for "freedom of association," but this right is heavily diluted by references to the interest of the State and the leadership of the Chinese Communist Party. The country's sole officially recognized workers' organization, the All-China Federation of Trade Unions (ACFTU) is controlled by the Communist Party. Independent trade unions are illegal. Though ACFTU officials recognize that workers' interests may not always coincide with those of the Communist Party, the trade union law passed by the NPC in March 1992 stated that the ACFTU is a party organ, and its primary purpose is to mobilize workers for national development. The 1993 revised Trade Union Law required that the establishment of unions at any level be submitted to a higher level trade union organization for approval. The ACFTU, the highest level organization, has not approved the

establishment of independent unions. Attempts to form or register independent unions have been severely repressed (see Section 1.e. and 2.b.). There are no provisions allowing for individual workers or unofficial worker organizations to affiliate with international bodies. The vast majority of workers have no contact with any union other than the ACFTU.

Credible reports indicate that the Government has attempted to stamp out clandestine union activity. In March a petition calling, among other things, for workers to have "freedom from exploitation," the right to strike, and the right to organize nonofficial trade unions was circulated in Beijing. Chinese authorities later detained Zhou Guoqiang, (an associate of Han Dongfang, see Section 2.d.) Yuan Hongbing, and Wang Jiaqi after they presented the petition; Zhou was sentenced in September to 3 years' reeducation through labor, although the charges against him were reportedly not linked to the petition. Accurate figures are not available on the number of Worker Autonomous Federation detainees still being held after the 1989 Tiananmen Square demonstrations.

The ACFTU's primary attention remains focused on its traditional constituency, state sector workers. The Trade Union Law mandates that workers may decide whether to join the union in their enterprise. By official estimate, 10 percent of workers in collectively and state-owned enterprises have chosen for their own reasons not to join. There have been no reports of repercussions for workers who have not joined ACFTU unions. Diversification of enterprise types over the last decade of reform has vastly increased the number of workers outside the traditional sphere of the ACFTU. Over half of China's nonagricultural work force is now largely unorganized and outside the state industrial structure, in collectives, township and village enterprises, private and individual enterprises, and foreign-invested enterprises. In township and village enterprises, one of the fastest growing sectors of the economy, only 0.1 percent of workers are organized in ACFTU affiliates.

Workers in companies with foreign investors are guaranteed the right to form unions, which must affiliate with the ACFTU. According to ACFTU statistics, 60 percent of workers in foreign-invested companies had joined unions by December 1994. Unofficial Embassy surveys suggest a more accurate estimate of unionization of employees in foreign-invested enterprises might be closer to 40 percent. According to press reports, 14 coastal provinces issued regulations requiring all

foreign-invested enterprises to establish unions by the end of 1994. Enforcement of these regulations appears to have been haphazard. Guangdong province, recipient of much of China's foreign investment, reported 40-percent unionization of foreign-invested enterprises in December 1994.

The right to strike, which had been included in China's 1975 and 1978 constitutions, was not retained in the 1982 Constitution. In general, the Union Law assigns unions the role of mediators or go-betweens with management in cases of work stoppages or slowdowns. Nonetheless, work stoppages occurred in several locations in China during 1994. One of the largest well-documented cases occurred when 1,300 workers in a foreign-invested enterprise in Shekou in Guangdong province struck over working conditions. Beginning in 1993, the Ministry of Labor no longer officially denied the existence of strikes in China. In 1994 Ministry of Labor officials provided detailed statistics on the number and type of labor disputes. The statistics, based on National Mediation Center and Labor Bureau records, reveal a 50-percent increase in disputes in 1993. Ministry of Labor arbitration bureaus across China recorded 12,358 disputes involving 34,794 workers. Of these, all but 1,173 were initiated by workers. According to the Ministry of Labor, roughly two-thirds of the disputes were settled through mediation or arbitration, 334 were taken to court, and 244 resulted in strikes.

b. The Right to Organize and Bargain Collectively

The long-awaited National Labor Law, passed by the NPC's Standing Committee on July 5, permits workers in all types of enterprises in China to bargain collectively. The law, which will take effect January 1, 1995, supersedes a 1988 law that allowed collective bargaining only by workers in private enterprises. Some high-profile experiments in collective bargaining have been carried out at state enterprises, notably the Shanghai Number Five Iron and Steel Plant. In the past, the ACFTU has limited its role to consulting with management over wages and regulations affecting working conditions and serving as a conduit for communicating workers' complaints to management or municipal labor bureaus. The ACFTU has shown concern about protecting workers' living standards in areas such as unemployment insurance and argued in 1993 that the traditional definition of workers should be expanded to include peasants laboring in China's township and village enterprises.

Before wage reform, workers' wages were set according to a uniform national scale, based on seniority and skills. Since wage reform, a total wage bill for each collective and state-owned enterprise is set by the Ministry of Labor according to four criteria: 1) as a percentage of profits, 2) as a contract amount with the local labor bureau, 3) for money losing enterprises, according to a state-set amount, or 4) as an enterprise-set amount subject to Labor Ministry review. Individual enterprises determine how to divide the total among workers, a decision usually made by the enterprise manager in consultation with the enterprise party chief and the ACFTU representative. Worker congresses (see below) have mandated authority to review plans for wage reform, though these bodies serve primarily as rubberstamp organizations. Wages are generally equal for the same type of work within enterprises. Incentives are provided for increased productivity. Under the new Labor Law, wages may be set according to conditions set out in collective contracts negotiated between ACFTU representatives and management. In practice, only the small number of workers with high technical skills can negotiate effectively on salary and fringe benefit issues.

The old permanent employment system is increasingly giving way to a more flexible contract-based system. Most workers in state-owned enterprises hired in the last 3 years have signed individual contracts--a practice mandated by the new Labor Law--and a number of large enterprises have converted all workers to such contracts. Approximately 40 percent of state sector workers now work under contract, but the proportion of contract workers varies widely according to regional economic development. In Shanghai, 1.5 million workers, or 97.5 percent of all workers in state sector firms, have signed labor contracts. Contract arrangements are more common in township and village enterprises and many types of joint ventures. In collective enterprises below the provincial level, contract workers are a distinct minority. China's new Labor Law provides for workers and employers at all types of enterprises to sign both collective and individual contracts. The former will be worked out between ACFTU or worker representatives and management and will specify such matters as working conditions, wage distribution, and hours of work. Individual contracts will then be drawn up in line with the terms of the collective contract.

Worker congresses, held periodically in most Chinese enterprises, theoretically have the authority to remove incompetent managers and approve major decisions affecting the

enterprise, notably wage and bonus distribution systems. However, worker congresses generally take place only once a year and serve essentially to approve agreements worked out among factory managers, party secretaries, and ACFTU representatives. In smaller enterprises it is not unusual to find these three posts held by the same person.

A dispute settlement procedure has been in effect since 1987. The procedure provides for mediation, two levels of arbitration committees, and a final appeal to the courts. Of the 12,358 cases brought for arbitration in 1993, 64 percent were resolved at the first or second level. Less than 3 percent reached the courts. Approximately 40 percent of the cases closed in 1993 were resolved in favor of the worker(s), 20 percent in favor of management; the rest resulted in a compromise. According to Labor Ministry officials, most arbitration cases are filed by contract workers or their employers, indicating, they assert, that the new contract system provides a clearer set of ground rules which both sides can attempt to enforce.

The 1982 Trade Union Law prohibits antiunion discrimination and specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. Unionized foreign businesses generally report pragmatic relations with ACFTU representatives. At its National Congress in October 1993, the ACFTU set the goal of establishing unions in 50 percent of all foreign-funded enterprises by the end of 1994.

Laws governing working conditions in China's special economic zones (SEZ's) are not significantly different from those in the rest of the country. However, wages in the SEZ's, and in southeastern China generally, are significantly higher than in other parts of the country.

#### c. Prohibition of Forced or Compulsory Labor

In addition to prisons and reform through labor facilities, which contain inmates sentenced through judicial procedures (see Section 1.c.), China also maintains a network of "reeducation through labor" camps, where inmates are sentenced through nonjudicial procedures (see Section 1.e.). Inmates of reeducation through labor facilities are generally required to work. Reports from international human rights organizations and the foreign press indicate that at least some persons in pretrial detention are also required to work. Justice officials have stated that in reeducation through labor

facilities there is a much heavier emphasis on education than on labor. Most reports conclude that work conditions in the penal system's light manufacturing factories are similar to those in ordinary factories, but conditions on farms and in mines can be harsh. As is the case in most Chinese workplaces, safety is not a high priority. There are no available figures for casualties in prison industry.

Some penal facilities contract with regular industries for prisoners to perform light manufacturing and assembly work. In 1991 the Government published a reiteration of its regulations barring the export of prison-made goods. On August 7, 1992, the U.S. and Chinese Governments signed a memorandum of understanding (MOU) prohibiting trade in prison labor products. A statement of cooperation detailing specific working procedures for implementation of the MOU was agreed to and signed on March 14, 1994.

d. Minimum Age for Employment of Children

China's National Labor Law, effective January 1, 1995, forbids employers to hire workers under 16 years of age and specifies administrative review, fines, and revocation of business licenses of those businesses that hire minors. In the interim, regulations promulgated in 1987 prohibiting the employment of school-age minors who have not completed the compulsory 9 years of education continued in force. Enterprise inspection and effective enforcement of labor regulations is expanding. Officials insist that increased diligence in monitoring temporary workers has successfully precluded widespread employment of minors. Labor officials also report that employers were disciplined in 1994 for infringement of child labor regulations, but such reports cannot be verified. In poorer isolated areas, child labor in agriculture is widespread. Most independent observers agree with Chinese officials that, given its vast surplus of adult labor, urban child labor is a relatively minor problem in formal sectors of the economy. Rising dropout rates at secondary schools in some southern provinces and anecdotal reports suggest that children may increasingly be entering unregulated sectors of China's economy. No specific Chinese industry is identifiable as a significant violator of child labor regulations.

e. Acceptable Conditions of Work

The new Labor Law codifies many of the general principles of China's labor reform, setting out provisions on employment,

labor contracts, working hours, wages, skill development and training, social insurance, dispute resolution, legal responsibility, supervision, and inspection. In anticipation of the Law's minimum wage requirements, many local governments already enforce regulations on minimum wages. Generally the wage levels have been set higher than the local poverty relief ceiling but lower than the current wage level of the average worker. Minimum wage figures do not include free or heavily subsidized benefits which employers commonly provide in kind, such as housing, medical care, and education. Unemployment insurance schemes now cover a majority of urban workers (primarily state sector workers). Benefits from these funds are provided to laid off workers according to "local conditions," but unemployment subsidies generally equal 120 to 150 percent of the local hardship relief standard.

Regularization of unemployment insurance coverage and administration in 1994 has served to decrease the incidence of nonpayment of severance allowances. Workers are eligible to receive unemployment relief funds for varying lengths of time, up to 24 months, according to length of service.

In February the State Council reduced the national standard workweek from 48 hours to 44 hours, excluding overtime, with a mandatory 24-hour rest period. A system of alternating weeks of 6- and 5-day workweeks began in March, with a 6-month grace period for implementation. The same regulations specified that cumulative monthly overtime could not exceed 48 hours. The Chinese press regularly reported cases of workers forced to work regular 12-and 14-hour days of forced overtime at foreign-invested enterprises, particularly in southeast China and the SEZ's.

Occupational health and safety are constant themes of posters and campaigns. Every work unit must designate a health and safety officer, and the International Labor Organization has established a training program for these officials. The U.S. Department of Labor's Mine Safety and Health Administration is participating actively in this program. Moreover, while the right to strike is not provided for in the 1982 Constitution, the Trade Union Law explicitly recognizes the right of unions to "suggest that staff and workers withdraw from sites of danger" and to participate in accident investigations. Labor officials reported that such withdrawals did occur in some instances during 1994. Nonetheless, pressures for increased output, lack of financial resources to maintain equipment, lack of concern by management, and a traditionally poor understanding of safety issues by workers have contributed to a

continuing high rate of accidents. Statistics provided by the ACFTU indicate that 11,600 workers were killed in industrial accidents from January to August of 1993, up 13 percent over the same period of 1992. One credible report indicates there are over 10,000 miners killed in accidents yearly. Fatal factory explosions, fires, and collapsing dormitories have been covered by both the domestic and foreign press. Officials blame 60 percent of accidents on violation of safety regulations, particularly in the rapidly expanding rural, private, and foreign-invested enterprise sectors. In Guangdong, where 1,300 fires killed 329 people and injured 889 in 1993, the authorities announced in February new fines for enterprises that neglect safety precautions. Negligent units will be fined 1 to 5 percent of the total losses they incur in any fire, \$3,450 (RMB 30,000) for every worker killed, and \$345 to \$575 (RMB 3,000 to 5,000) for each worker injured. Many factories using harmful products, such as asbestos, fail not only to protect their workers against the ill effects of such products, but also fail to inform them about the potential hazards.

-----

#### TIBET

(This section of the report on China has been prepared pursuant to Section 536 (b) of Public Law 103-236. The United States recognizes the Tibet Autonomous Region (hereinafter referred to as "Tibet") to be part of the People's Republic of China. Preservation and development of Tibet's unique religious, cultural, and linguistic heritage and protection of its people's fundamental human rights continue to be of concern.)

#### Respect for the Integrity of the Person

Because the Chinese Government strictly controls access to and information about Tibet, it is difficult to state precisely the scope of human rights abuse there. It is known, however, that during 1994 Chinese government authorities continued to commit widespread human rights abuses in Tibet, including instances of torture, arbitrary arrest, and detention without public trial, long detention of Tibetan nationalists for peacefully expressing their political views, and rigid controls on freedom of speech and the press, particularly for Tibetans. There are credible reports that authorities in some instances tortured and killed detainees in Tibet. Reports from international human rights organizations indicate that a Tibetan nun died on

June 4 in a prison hospital, reportedly as a result of a beating by guards. In May Tibetan officials reported that a former public security official in Tibet was sentenced to 9 years in prison for causing the death of a suspect while torturing him to obtain a confession. The United Nations Working Group on Arbitrary Detentions has concluded that China is arbitrarily detaining 32 Tibetans and has called for their release.

The authorities permit most traditional religious practices except those seen as a vehicle for political dissent, which they ruthlessly suppress. They continue to detain and prosecute monks and nuns who have expressed dissenting political views in public. Legal safeguards for Tibetans detained or imprisoned are inadequate in design and implementation, and lack of independent outside access to prisoners or prisons makes it difficult to assess the extent and severity of abuses and the number of Tibetan prisoners.

According to human rights organizations, small-scale protests were reported to have occurred in Lhasa, the capital, and elsewhere during 1994, resulting in swift detention for participants. According to credible reports, in January, 11 nuns were sentenced to terms of 2 to 7 years' imprisonment for taking part in a proindependence demonstration in 1993. Another group of 14 nuns reportedly had their prison sentences increased by up to 9 years for singing proindependence songs. In May a demonstration by Tibetan shopkeepers protesting tax increases took on political overtones, and several dozen Tibetan monks and nuns were detained, apparently for raising independence slogans. Police responded without using excessive force, reflecting better riot control training; no lives were lost. Tibetan political prisoners such as Ngawang Pulchung and Jempel Tsering remained imprisoned in 1994, although Yulo Dawa Tsering and three other Tibetans were released in November.

#### Freedom of Religion

In Tibet, where Buddhism and Tibetan nationalism are closely intertwined, relations between Buddhists and secular authorities continued to be tense in 1994. The Government does not tolerate religious manifestations that advocate Tibetan independence, and it has prohibited a large traditional festival which has in the past been used to encourage separatist sentiment. The Government condemns the Dalai Lama's political activities and his leadership of a "government in exile," but it recognizes him as a major religious figure.

Government religious authorities in 1994 forbade party and government officials from displaying the Dalai Lama's photograph, including in their homes, and removed his photographs from sale at bazaar shops. His photos remain in prominent positions in most temples in Tibet. The autonomous region government in Tibet also ordered Tibetan officials who have children studying in India to bring them back to Tibet immediately.

In 1994 the Chinese Government continued to take steps to ameliorate damage caused in the 1960's and 1970's to Tibet's historic religious buildings and other aspects of its cultural and religious heritage. The Government has expended substantial sums to reconstruct the most important sacred sites of Tibetan Buddhism. A 5-year project to restore the Potala Palace (the most important Tibetan Buddhist center) in Lhasa was concluded in August 1994 at a cost of \$6.4 million. The Government also provided funding in 1994 for the restoration of two other major religious sites in Lhasa, the Jokhang and Ganden monasteries. Ganden had been completely destroyed during the Cultural Revolution. Public contributions also helped to rebuild these and many smaller monasteries. Although the Government denied it, the practice of religion in Tibet continued to be hampered by the limits the Government imposes on the number of resident monks in several of Tibet's main temples. There are 34,000 Buddhist monks and nuns in Tibet, according to official figures, a small number compared to traditional norms. Tibetan Buddhists claim that they are restricted in the numbers and training of religious practitioners, even though limits on resident monks are not strictly observed in practice. Monks at some Tibetan monasteries known for their opposition to Han Chinese domination may still face travel restrictions.

#### Economic Development and Protection of Cultural Heritage

Like China's 54 other minority ethnic groups, Tibetans receive preferential treatment in marriage policy, family planning, university admission, and employment. Chinese government development policies have helped raise the living standards of Tibetans, but also have disrupted traditional living patterns. The Government has sought to preserve the Tibetan language, but in doing so has encountered the dilemma of how to preserve the language without limiting educational opportunities. In Tibet primary schools at the village level teach in Tibetan. Many pupils end their formal education after graduating from these schools, which usually only have two or three grades. Those

who go on to regional primary schools and beyond, particularly after junior high school, receive much of their education in Chinese, although some areas provide instruction in Tibetan through junior high school. Efforts to expand Tibetan language instruction are hampered by lack of materials and competent teachers at higher levels.

In July 1994, the Chinese Communist Party and the State Council conducted a large-scale work conference on Tibet. The third of its kind since 1980, this work conference was attended by delegations from the CCP and central government organizations, as well as provincial representatives and delegates from certain urban areas. The conference focused on setting economic development goals, pledging to increase economic activity in Tibet by 10 percent a year. The plan included a total of \$270 million in investment projects, continuing the government policy of providing substantial budget subsidies to develop Tibet's backward economy. China's leaders also made clear that Tibet would continue to receive central government financial assistance and would retain "special flexibility" in implementing reform policies mandated elsewhere in China. In a speech covered extensively in the Chinese press, President Jiang Zemin reiterated Beijing's willingness to "welcome back" the Dalai Lama to Tibet, so long as "he abandons advocacy of Tibetan independence and ceases activities to split the motherland." Although the work conference approved plans to boost economic development in Tibet, it produced no change in the Chinese Government's policy toward Tibet.

The Dalai Lama continued in 1994 to express concern that development projects and other central government policies encourage a massive influx of Han Chinese into Tibet, which has the effect of overwhelming Tibet's traditional culture and diluting Tibetan demographic dominance in Tibet. Free movement of people throughout China in recent years, and the prospect of economic opportunity in Tibet, has led to a substantial increase in the non-Tibetan population (including China's Muslim Hui minority as well as Han Chinese) in Lhasa and other urban areas. Most of these migrants profess to be temporary residents, but small businesses run by ethnic Han and Hui peoples (mostly restaurants and retail shops) are becoming more numerous in or near some Tibetan towns and cities. Roughly one-third of the population of Lhasa is Han Chinese. Chinese officials assert that 95 percent of Tibet's officially registered population is Tibetan, with Han and other ethnic groups making up the remainder. Increased economic development will likely mean the transfer to, or temporary duty in, Tibet

of a greater number of non-Tibetan technical personnel, and may also increase the number of immigrants from China's large floating population seeking to take advantage of new economic opportunities.

Economic development, fueled by central government subsidies, is changing traditional Tibetan ways of life. While the Chinese Government has made efforts in recent years to restore the physical structures and other aspects of Tibetan Buddhism and Tibetan culture damaged or destroyed during the Cultural Revolution, repressive social and political controls continue to limit the individual freedoms of Tibetans.